

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28746

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

PIONEER MILL COMPANY, LLC, Plaintiff-Appellee  
v.

NORMA T. YARA  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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FILED

MATHILDA NOELANI MASON, Defendant-Appellant, HEIRS OR ASSIGNS OF  
KEONI and NUHI, and ALL WHOM IT MAY CONCERN,  
Defendants-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT  
(CIVIL NO. 05-1-0330)

ORDER DISMISSING APPEAL WITH INSTRUCTIONS  
TO THE CIRCUIT COURT TO ENTER A FINAL JUDGMENT  
(By: Recktenwald, C.J., Watanabe and Nakamura, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Defendant-Appellant Mathilda Noelani Mason's (Appellant Mason) appeal, because the judgments entered in the Circuit Court of the Second Court on September 18, 2006 and September 25, 2007 do not satisfy the requirements for appealable final judgments under Hawai'i Revised Statutes (HRS) § 641-1(a) (Supp. 2006), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).<sup>[1]</sup>

HRS § 641-1(a) (Supp. 2006) authorizes appeals from "final judgments, orders, or decrees[.]" HRS § 641-1(a) (Supp. 2006). Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c)

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<sup>1</sup> The Honorable Joseph E. Cardoza presided.

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(Supp. 2006). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." HRCP Rule 58. Based on this requirement under HRCP Rule 58, the Supreme Court of Hawai'i has held that "[a]n appeal may be taken . . . only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

[I]f a judgment purports to be the final judgment in a case involving multiple claims or multiple parties, the judgment (a) must specifically identify the party or parties for and against whom the judgment is entered, and (b) must (i) identify the claims for which it is entered, and (ii) dismiss any claims not specifically identified[.]

Id.

Therefore, "an appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCP [Rule] 54(b)."

Id.

Neither the September 18, 2006 judgment nor the September 25, 2007 judgment resolves, on its face, all claims against all parties. Neither the September 18, 2006 judgment nor the September 25, 2007 judgment contains the finding necessary for certification under HRCP Rule 54(b). Therefore, neither the September 18, 2006 judgment nor the September 25, 2007 judgment is an appealable final judgment. Absent an appealable final judgment, this appeal is premature and must be dismissed. Accordingly,

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IT IS HEREBY ORDERED that this appeal in appellate court case number 28746 is dismissed for lack of appellate jurisdiction.

IT IS FURTHER ORDERED that, within thirty days after this order of dismissal becomes final and effective pursuant to Rules 36, 40.1 and 41 of the Hawai'i Rules of Appellate Procedure, the Circuit Court of the Second Circuit, State of Hawai'i, shall enter a single judgment that satisfies the requirements for an appealable final judgment under HRCP Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994), in that the judgment shall, on its face, resolve all claims against all parties in this case.

DATED: Honolulu, Hawai'i, February 1, 2008.

*Manuel Medina*

Chief Judge

*Courne K.A. Watanabe*

Associate Judge

*Court Nelson*

Associate Judge